

Introduced by Senator Calderon

February 21, 2013

An act relating to pupils to amend Sections 44500, 44661, 44662, and 44664 of the Education Code, relating to education employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 441, as amended, Calderon. ~~Pupils: achievement gap. Education employment: certificated employees.~~

(1) Existing law requires the evaluation and assessment of the performance of each certificated employee to be made on a continuing basis, as prescribed, including at least every other year for personnel with permanent status and at least every 5 years for personnel with permanent status who have been employed at least 10 years with the school district and meet specified requirements.

This bill would require the evaluation and assessment at least every 3 years of the performance of each certificated employee with permanent status who have been employed at least 10 years with the school district and meet specified requirements.

(2) Existing law requires the governing board of each school district to evaluate and assess certificated employee performance as it reasonably relates to specified matters.

This bill would instead require the governing board of each school district to regularly evaluate and assess the performance of certificated employees assigned to positions as classroom teachers or school principals using multiple measures, including, but not limited to, specified minimum criteria. The bill would require at least 4 rating

levels to be used in evaluating a certificated employee and for the governing board of the school district to define each rating level used.

(3) Existing law requires the governing board of a school district, in the development and adoption of specified guidelines and procedures, to avail itself of the advice of the certificated instructional personnel in the district's organization of certificated personnel.

This bill would also require the governing board to avail itself of the advice of parents of pupils, as specified.

(4) By imposing new duties or a higher level of service on a school district in the creation of guidelines and procedures and for the evaluation and assessment of certificated employees, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop the Academic Performance Index consisting of a variety of indicators reported to the State Department of Education to track the achievement of schools and their pupils.~~

~~This bill would state the intent of the Legislature to enact legislation that would reduce the achievement gap for pupils in California.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44500 of the Education Code is amended
2 to read:

3 44500. (a) There is hereby established the California Peer
4 Assistance and Review Program for Teachers. The governing board
5 of a school district and the exclusive representative of the
6 certificated employees in the school district may develop and
7 implement a program authorized by this article that meets local

1 conditions and conforms with the principles set forth in subdivision
2 (b).

3 (b) The following principles, at a minimum, shall be included
4 in a locally developed program authorized by this article:

5 (1) A teacher participant shall be a permanent employee in a
6 school district with 250 or greater units of average daily attendance
7 or a permanent or probationary employee in a school district with
8 fewer than 250 units of average daily attendance and volunteer to
9 participate in the program or be referred for participation in the
10 program as a result of an evaluation performed pursuant to
11 ~~subdivision (c) of Section 44662 or 44664~~. In addition, teachers
12 receiving assistance may be referred pursuant to a collectively
13 bargained agreement.

14 (2) Performance goals for an individual teacher shall be in
15 writing, clearly stated, aligned with pupil learning, and consistent
16 with Section 44662.

17 (3) Assistance and review shall include multiple observations
18 of a teacher during periods of classroom instruction.

19 (4) The program shall expect and strongly encourage a
20 cooperative relationship between the consulting teacher and the
21 principal with respect to the process of peer assistance and review.

22 (5) The school district shall provide sufficient staff development
23 activities to assist a teacher to improve his or her teaching skills
24 and knowledge.

25 (6) The program shall have a monitoring component with a
26 written record.

27 (7) The final evaluation of a teacher's participation in the
28 program shall be made available for placement in the personnel
29 file of the teacher receiving assistance.

30 *SEC. 2. Section 44661 of the Education Code is amended to*
31 *read:*

32 44661. In the development and adoption of guidelines and
33 procedures pursuant to this article, the governing board shall avail
34 itself of the advice of the certificated instructional personnel in the
35 district's organization of certificated personnel; ~~provided, however,~~
36 ~~that the development and adoption of guidelines pursuant to this~~
37 ~~article shall also be subject to the provisions of Article 1~~
38 ~~(commencing with Section 7100) of Chapter 2 of Part 5 of Division~~
39 ~~1 of Title 1 personnel and of the parents of pupils, including~~
40 *obtaining systematic and continuing input through open feedback*

1 sessions, surveys, and specific focus groups by subject matter and
2 grade level.

3 SEC. 3. Section 44662 of the Education Code is amended to
4 read:

5 44662. (a) The governing board of each school district shall
6 establish standards of expected pupil achievement at each grade
7 level in each area of study.

8 (b) The governing board of each school district shall *regularly*
9 evaluate and assess *the performance of certificated*~~employee~~
10 ~~performance as it reasonably relates to employees assigned to~~
11 ~~positions as classroom teachers or school principals using multiple~~
12 ~~measures including, but not limited to, the following minimum~~
13 ~~criteria:~~

14 (1) The progress of pupils toward the standards established
15 pursuant to subdivision (a) and, if applicable, the state adopted
16 academic content standards as measured by state adopted criterion
17 referenced assessments.

18 (2) The instructional techniques and strategies used by the
19 employee.

20 (3) The employee's adherence to curricular objectives.

21 (4) The establishment and maintenance of a suitable learning
22 environment; within the scope of the employee's responsibilities.

23 (c) *At least four rating levels shall be used in evaluating a*
24 *certificated employee pursuant to this section. The governing board*
25 *of the school district shall define each rating level used.*

26 ~~(e)~~

27 (d) The governing board of each school district shall establish
28 and define job responsibilities for certificated noninstructional
29 personnel, including, but not limited to, supervisory and
30 administrative personnel, whose responsibilities cannot be
31 evaluated appropriately under the provisions of subdivision (b),
32 and shall evaluate and assess the performance of those
33 noninstructional certificated employees as it reasonably relates to
34 the fulfillment of those responsibilities.

35 ~~(d)~~

36 (e) Results of an employee's participation in the Peer Assistance
37 and Review Program for Teachers established by Article 4.5
38 (commencing with Section 44500) shall be made available as part
39 of the evaluation conducted pursuant to this section.

40 ~~(e)~~

1 (f) The evaluation and assessment of certificated employee
2 performance pursuant to this section shall not include the use of
3 publishers' norms established by standardized tests.

4 (f)

5 (g) Nothing in this section shall be construed as in any way
6 limiting the authority of school district governing boards to develop
7 and adopt additional evaluation and assessment guidelines or
8 criteria.

9 *SEC. 4. Section 44664 of the Education Code is amended to*
10 *read:*

11 44664. (a) Evaluation and assessment of the performance of
12 each certificated employee shall be made on a continuing basis as
13 follows:

14 (1) At least once each school year for probationary personnel.

15 (2) At least every other year for personnel with permanent status.

16 (3) At least every ~~five~~ *three* years for personnel with permanent
17 status who have been employed at least 10 years with the school
18 district, are highly qualified, if those personnel occupy positions
19 that are required to be filled by a highly qualified professional by
20 the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec.
21 ~~6301~~, *6301* et seq.), as defined in 20 U.S.C. Sec. 7801, and whose
22 previous evaluation rated the employee as meeting or exceeding
23 standards, if the evaluator and certificated employee being
24 evaluated agree. The certificated employee or the evaluator may
25 withdraw consent at any time.

26 (b) The evaluation shall include ~~recommendations, if necessary,~~
27 *recommendations* as to areas of improvement in the performance
28 of the employee. If an employee is not performing his or her duties
29 in a satisfactory manner according to the standards prescribed by
30 the governing board, the employing authority shall notify the
31 employee in writing of that fact and describe the unsatisfactory
32 performance. The employing authority shall thereafter confer with
33 the employee making specific recommendations as to areas of
34 improvement in the employee's performance and endeavor to assist
35 the employee in his or her performance. If any permanent
36 certificated employee has received an unsatisfactory evaluation,
37 the employing authority shall annually evaluate the employee until
38 the employee achieves a positive evaluation or is separated from
39 the district.

1 (c) Any evaluation performed pursuant to this article ~~which~~ *that*
2 contains an unsatisfactory rating of an employee's performance
3 in the area of teaching methods or instruction may include the
4 requirement that the certificated employee shall, as determined
5 necessary by the employing authority, participate in a program
6 designed to improve appropriate areas of the employee's
7 performance and to further pupil achievement and the instructional
8 objectives of the employing authority. If a district participates in
9 the Peer Assistance and Review Program for Teachers established
10 pursuant to Article 4.5 (commencing with Section 44500), any
11 certificated employee who receives an unsatisfactory rating on an
12 evaluation performed pursuant to this section shall participate in
13 the Peer Assistance and Review Program for Teachers.

14 (d) Hourly and temporary hourly certificated employees, other
15 than those employed in adult education classes who are excluded
16 by the provisions of Section 44660, and substitute teachers may
17 be excluded from the provisions of this section at the discretion
18 of the governing board.

19 *SEC. 5. If the Commission on State Mandates determines that*
20 *this act contains costs mandated by the state, reimbursement to*
21 *local agencies and school districts for those costs shall be made*
22 *pursuant to Part 7 (commencing with Section 17500) of Division*
23 *4 of Title 2 of the Government Code.*

24 ~~SECTION 1. It is the intent of the Legislature to enact~~
25 ~~legislation that would reduce the achievement gap for pupils in~~
26 ~~California.~~